IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10399 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL POORVIBEN NARSINHBHAI

Versus

UNION OF INDIA

Appearance:

MR SUNIL C PATEL for Petitioner

MR AKSHAY H MEHTA for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 03/10/2000

ORAL JUDGEMENT

Rule. Mr.Akshay H.Mehta, Learned Standing Counsel for Central Government waives service of rule for respondent.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of mandamus directing the respondent to incorporate the change in the passport in the column of date of birth on the basis of Annexure "A" to the petition as 10.9.1980 in place of 25.07.1980 and to issue a corrected copy of passport.

3. The petitioner while applying for passport gave his date of birth as 25.7.1980 as per School Leaving Certificate and now when the date of birth is checked up it was found that the same is wrongly mentioned through bonafide mistake and as such since it is revealed from the birth certificate issued by the Birth and Death Registrar, Bombay (annexure "A" to the petition) the petitioner requested the authorities to make correction in the date of birth of the petitioner on the basis of birth certificate, but the petitioner was informed that there must be some direction from the competent Court and unless and until such directions are received, the passport authority can not change the same on its own. Hence, the petitioner has filed the present petition.

4. In view of the settled legal position that if there is any discrepancy between the birth date recorded in the birth certificate issued by the Municipal/Local authority and the birth date recorded in the school leaving certificate, the birth date recorded in the birth certificate should normally prevail, the Regional Passport Officer should not have had any hesitation in accepting the petitioner's request for showing the birth date in the passport on the basis of the birth certificate issued by the Birth and Death Registrar, Bombay (at annexure "A" to the petition).

5. In view of the above discussion, the petition is allowed. The respondent is directed to consider the petitioner's request for changing the birth date in the passport on the basis of the birth date as recorded in the birth certificate issued by the Birth and Death Registrar, Bombay (at annexure "A" to the petition) within four weeks from the date of receipt of writ of this Court or a certified copy of this judgment whichever is earlier.

In case the petitioner is required to apply for a fresh passport, the petitioner shall comply with the requisite formalities for the same.

6. The petition is accordingly allowed in the

aforesaid terms. Rule is made absolute to the aforesaid extent.

7. Since the respondent is not responsible for the mistake in question, the petitioner shall pay costs of this petition which are quantified at Rs.1,500/- to the respondents within three weeks from today. Direct Service is permitted.

3.10.2000 (M.S.SHAH,J)